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International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination
Eighty-ninth session
25 April-13 May 2016
Item 6 of the provisional agenda
Consideration of reports, comments and information submitted by States parties under article 9 of the Convention

List of themes concerning the combined twenty-first to twenty-third periodic reports of Spain (CERD/C/ESP/21-23)

Note by the Country Rapporteur

The Committee on the Elimination of Racial Discrimination decided at its seventy-sixth session (A/65/18, para. 85) that the Country Rapporteur would send to the State party concerned a short list of themes with a view to guiding and focusing the dialogue between the State party's delegation and the Committee during the consideration of the State party's report. This document contains a list of such themes. This is not an exhaustive list; other issues may also be raised in the course of the dialogue. No written replies are required.

1. Lack of information on the demographic make-up of the population

Updated statistical data on the ethnic and racial composition of the population, with a view to identifying the ethnic and racial groups present in Spanish territory, monitoring types of discrimination and discriminatory tendencies that already exist and defining policies and measures to combat racial discrimination (CERD/C/ESP/CO/18-20, para. 8).

2. Legal, institutional and public policy framework for combating racial discrimination (arts. 2-7)

(a) Detailed information on progress with the revision of the 2009 Human Rights Plan by the Centre for Political and Constitutional Studies (CERD/C/ESP/21-23, para. 76), including consultations with NGOs; as well as more detailed information on the implementation of the Comprehensive Strategy against Racism, Racial Discrimination, Xenophobia and related Intolerance (ibid., paras. 84-88), the Strategic Plan for Citizenship and Integration (ibid., paras. 80-83), and steps taken towards the adoption and implementation of the 2012-2020 National Strategy for the Social Inclusion of the Gypsy Population (ibid., paras. 89-92);

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(b) Detailed information on the impact of the budget cuts on public policies to combat racism, in particular their impact on the implementation of programmes mentioned above;

(c) Update on actions taken to strengthen the Council for the Promotion of Equal Treatment of All Persons without Discrimination on Grounds of Racial or Ethnic Origin, in particular with regard to its financial and human resources and the strengthening of its mandate and independence.

3. Situation of migrants, asylum seekers, refugees and unaccompanied minors (arts. 1-7)

(a) More detailed information on the concrete measures taken for the effective implementation of Organic Act No. 4/2000, which recognizes various rights to foreign nationals, regardless of their administrative status (CERD/C/ESP/21-23, para. 21);

(b) More detailed information on the new regulations governing migrant holding centres (Royal Decree No. 162/2014), indicating their impact on the living conditions of persons held in such centres, including their access to health care — medical, psychological and psychiatric — and social and legal support, and as regards the separation of persons accused of criminal offences from those accused of administrative offences, as well as their impact on the time taken to deal with asylum applications (CERD/C/ESP/21-23, para. 70), giving statistical data if possible;

(c) Detailed and updated information on the situation of migrants in Ceuta and Melilla, including living conditions in the temporary migrant reception centres, and in particular the actions taken to deal with overcrowding, and the physical state of the facilities; as well as on the practice of summary returns or "hot expulsion". In particular, the Committee would like detailed information on the implementation of the special regime established under the Public Security Act regarding "hot expulsion" and denial of entry at the border;

(d) Information on measures taken to investigate and punish those responsible for excessive use of force in operations to deport asylum seekers and undocumented immigrants, especially in Ceuta and Melilla, and notably in the operation at El Tarajal beach in Ceuta on 6 February 2014, which left 15 immigrants dead; as well as measures taken to ensure that foreign authorities acting in Spanish territory do not perpetrate human rights violations;

(e) Information on the implementation of Organic Act No. 4/2015 on the protection of public safety (CERD/C/ESP/21-23, para. 41; CCPR/C/ESP/CO/6, para. 8), and its impact in practice on identity checks on migrants, including those in an irregular situation, as well as the measures that have been taken to investigate and punish conduct contrary to the Act by officers of the security forces;

(f) Detailed information on the impact of Royal Decree-Law No. 16/2012, on urgent measures to guarantee the sustainability of the national health system and enhance the quality and security of its services, on the situation of foreigners in an irregular situation (CERD/C/ESP/21-23, paras. 67 and 155-161);

(g) Information on measures taken to deal with expressions of racism and intolerance against migrants, including in the political sphere and the media;

(h) Detailed information on the implementation of the Framework Protocol on dealing with unaccompanied minors (CERD/C/ESP/21-23, paras. 36 and 188-195; CERD/C/ESP/CO/18-20/Add.1, para. 23), and in particular please provide updated information on the methods used to ascertain the age of minors. Also provide information on measures to protect minors who on reaching age 18 would lose their residence permit.

4. Situation of Gypsies and Roma (arts. 1-7)

(a) Detailed and updated information on measures taken to improve the living conditions of the Roma and Gypsy population and their enjoyment of the rights to employment, housing, health and education, including the measures taken to reduce unemployment levels that affect them disproportionately, to prevent forced evictions in their settlements and the de facto segregation of girls and boys in schools, the high dropout rates in secondary education, and the impact of gender violence on Gypsy and Roma women (CERD/C/ESP/21-23, paras. 32-33). Please also provide information on measures taken to counteract the effects of the economic crisis and the austerity measures on this group;

(b) Please provide detailed information on the functioning of the State Council of the Gypsy People, including its mandate and powers and the impact that it has on the development of policies affecting this group.

5. Justice system and combating racial discrimination (arts. 5 and 6)

(a) Detailed information on progress with the reform of the Criminal Code envisaging the amendment of the regulations on acts of incitement to hatred and violence against groups or minorities (CERD/C/ESP/21-23, paras. 120-125), as well as measures taken to combat that and other similar behaviour. Also provide information on steps taken to harmonize the provisions of the Criminal Code pertaining to racial discrimination, and ways in which the reform of the Code might contribute to that;

(b) Information on the establishment of the positions of divisional special prosecutor and provincial prosecutors for equal treatment and against discrimination, as well as information on progress in the collection of data on investigations into offences related to racial and ethnic discrimination; if possible, provide statistical data on complaints filed, investigations launched and closed, prosecutions and sentences (CERD/C/ESP/21-23, paras. 110-117);

(b) Information on measures taken to improve data collection on incidents of racism and racial discrimination, as well as the responses to such incidents, in different areas of criminal law, and also in the area of civil law and administrative law;

(d) Detailed and updated information on training courses on racism and racial discrimination for police officers, prosecutors, lawyers and judges, as well as information on the impact such training has had on the situation of the migrant, Gypsy and Roma population in Spanish territory, in particular the impact of the police training manual on identifying and recording racist or xenophobic incidents (CERD/C/ESP/21-23, para. 17).